

VPNG – Study day

Medical negligence – a solicitor's perspective

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TODAY'S SESSION

- Legal forums
 - Coroners' Court of Victoria
 - County or Supreme Courts of Victoria
- Investigation process
- Examples of peri-operative nursing claims

LEGAL FORUMS – CORONERS' COURT

- Investigation of 'reportable deaths':
 - Accidental
 - Unnatural
- Deaths in a hospital that will be reported:
 - During or following a medical procedure **and** unexpected
 - Death certificate unable to be completed

LEGAL FORUMS – CORONERS' COURT

Steps the Coroner may take:

- Obtain medical records
- Brief independent experts to perform reviews
- Seek statements (institutional or individuals)
- Hold a Coronial Inquest

As well as identifying the circumstances surrounding death, the Coroner has a preventative role.

LEGAL FORUMS – CIVIL CASES

- County or Supreme Court are the courts where patients can issue proceedings seeking **compensation**
- **Legal concepts:**
 - Duty of care
 - Breach of duty of care
 - Causation
 - Quantifying the loss

LEGAL FORUMS – CIVIL CASES

- Usually takes 12 to 18 months before reaching trial – so lots of opportunity for pre-trial settlement!

LEGAL FORUMS – CIVIL CASES

Investigation of claims:

- Review medical records and policies
- Confer with staff involved in treatment
- Engage independent experts to review the case and tell us whether the treatment met a **reasonable standard of care**

EXAMPLES INVOLVING PERI-OP NURSES

- Surgical items retained in the operative wound
- Obtaining blood products
- Other:
 - Bumping the surgeon
 - Infection
 - Positioning injuries
 - Dropping patient
 - Light falling from the roof?!



Any questions?

